the appearance of the scene. There is no substitute for the claims negotiator's personal study of, and participation in, the case before settlement negotiations begin. If settlement is not possible due to the divergence in the offers, refine the issues as much as possible in order to expedite any subsequent suit. Mediation should be used if the divergence is due to an issue of law affecting either liability or damages. For further discussion see DA Pam 27–162, paragraph 2–64.

§ 536.57 Who should negotiate.

An AAO or, when delegated additional authority, an ACO or a CPO, has authority to settle claims in an amount exceeding the monetary authority delegated by regulation. It is DA policy to delegate USARCS authority, on a case-by-case basis, to an ACO or a CPO possessing the appropriate ability and experience. Only an attorney should negotiate with a claimant's attorney. Negotiations with unrepresented claimants may be conducted by a non-attorney, under the supervision of an attorney. For further discussion see DA Pam 27–162, paragraph 2–65.

§ 536.58 Settlement negotiations with unrepresented claimants.

All aspects of the applicable law and procedure, except the amount to be claimed, should be explained to both potential and actual claimants. The negotiator will ensure that the claimant is aware of whether the negotiator is an attorney or a non-attorney, and that the negotiator represents the United States. As to claims within USARCS' monetary authority, the chronology and details of negotiations should be memorialized with a written record furnished to the claimant. The claimant should understand that it is not necessary to hire an attorney, but when an attorney is needed, the negotiator should recommend hiring one. In a claim where liability is not an issue, the claimant should be informed that if an attorney is retained, the claimant should attempt to negotiate an hourly fee for determination of damages only. For further discussion see DA Pam 27–162, paragraph 2–68.

§ 536.59 Settlement or approval authority.

"Settlement authority" is a statutory term (10 U.S.C. 2735) meaning that officer authorized to approve, deny or compromise a claim, or make final action. "Approval authority" means the officer empowered to settle, pay or compromise a claim in full or in part, provided the claimant agrees. "Final action authority" means the officer empowered to deny or make a final offer on a claim. Determining the proper officer empowered to approve or make final action on a claim depends on the claims statute involved and any limitations that apply under that statute. DA Pam 27–162, paragraph 2–69, outlines how various authority is delegated among offices.

§ 536.60 Splitting property damage and personal injury claims.

Normally, a claim will include all damages that accrue by reason of the incident. Where a claimant has a claim for property damage and personal injury arising from the same incident, the property damage claim may be paid, under certain circumstances, prior to the filing of the personal injury claim. The personal injury claim may be filed later provided it is filed within the applicable statute of limitations. When both property damage and personal injury arise from the same incident, the property damage claim may be paid to either the claimant or, under subparts D or H of this part, the insurer and the same claimant may receive a subsequent payment for personal injury. Only under subparts D or H of this part may the insurer receive subsequent payment for subrogated medical bills and lost earnings when the personal injury claim is settled. The primary purpose of settling an injured claimant's property damage claim before settling the personal injury claim is to pay the claimant for vehicle damage expeditiously and avoid costs associated with delay such as loss of use, loss of business, or storage charges. The Commander USARCS' approval must be obtained whenever the estimated value of any one claim exceeds $25,000, or the value of all claims, actual or potential, arising from the incident exceeds $50,000; however, if the